

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 3278

Chapter 12, Laws of 2006

59th Legislature
2006 Regular Session

UNEMPLOYMENT INSURANCE--DISQUALIFICATION

EFFECTIVE DATE: 6/07/06

Passed by the House March 3, 2006
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 3, 2006
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 8, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 3278** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 8, 2006 - 2:20 p.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 3278

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Representatives Conway and Dickerson

Read first time 01/31/2006. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making adjustments in the unemployment insurance
2 system to enhance benefit and tax equity; reenacting RCW 50.20.050; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each
6 reenacted to read as follows:

7 (1) With respect to claims that have an effective date before
8 January 4, 2004:

9 (a) An individual shall be disqualified from benefits beginning
10 with the first day of the calendar week in which he or she has left
11 work voluntarily without good cause and thereafter for seven calendar
12 weeks and until he or she has obtained bona fide work in employment
13 covered by this title and earned wages in that employment equal to
14 seven times his or her weekly benefit amount.

15 The disqualification shall continue if the work obtained is a mere
16 sham to qualify for benefits and is not bona fide work. In determining
17 whether work is of a bona fide nature, the commissioner shall consider
18 factors including but not limited to the following:

19 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the
2 work; and

3 (iii) The level of skill required for the work in light of the
4 individual's training and experience.

5 (b) An individual shall not be considered to have left work
6 voluntarily without good cause when:

7 (i) He or she has left work to accept a bona fide offer of bona
8 fide work as described in (a) of this subsection;

9 (ii) The separation was because of the illness or disability of the
10 claimant or the death, illness, or disability of a member of the
11 claimant's immediate family if the claimant took all reasonable
12 precautions, in accordance with any regulations that the commissioner
13 may prescribe, to protect his or her employment status by having
14 promptly notified the employer of the reason for the absence and by
15 having promptly requested reemployment when again able to assume
16 employment: PROVIDED, That these precautions need not have been taken
17 when they would have been a futile act, including those instances when
18 the futility of the act was a result of a recognized labor/management
19 dispatch system;

20 (iii) He or she has left work to relocate for the spouse's
21 employment that is due to an employer-initiated mandatory transfer that
22 is outside the existing labor market area if the claimant remained
23 employed as long as was reasonable prior to the move; or

24 (iv) The separation was necessary to protect the claimant or the
25 claimant's immediate family members from domestic violence, as defined
26 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

27 (c) In determining under this subsection whether an individual has
28 left work voluntarily without good cause, the commissioner shall only
29 consider work-connected factors such as the degree of risk involved to
30 the individual's health, safety, and morals, the individual's physical
31 fitness for the work, the individual's ability to perform the work, and
32 such other work connected factors as the commissioner may deem
33 pertinent, including state and national emergencies. Good cause shall
34 not be established for voluntarily leaving work because of its distance
35 from an individual's residence where the distance was known to the
36 individual at the time he or she accepted the employment and where, in
37 the judgment of the department, the distance is customarily traveled by
38 workers in the individual's job classification and labor market, nor

1 because of any other significant work factor which was generally known
2 and present at the time he or she accepted employment, unless the
3 related circumstances have so changed as to amount to a substantial
4 involuntary deterioration of the work factor or unless the commissioner
5 determines that other related circumstances would work an unreasonable
6 hardship on the individual were he or she required to continue in the
7 employment.

8 (d) Subsection (1)(a) and (c) of this section shall not apply to an
9 individual whose marital status or domestic responsibilities cause him
10 or her to leave employment. Such an individual shall not be eligible
11 for unemployment insurance benefits beginning with the first day of the
12 calendar week in which he or she left work and thereafter for seven
13 calendar weeks and until he or she has requalified, either by obtaining
14 bona fide work in employment covered by this title and earning wages in
15 that employment equal to seven times his or her weekly benefit amount
16 or by reporting in person to the department during ten different
17 calendar weeks and certifying on each occasion that he or she is ready,
18 able, and willing to immediately accept any suitable work which may be
19 offered, is actively seeking work pursuant to customary trade
20 practices, and is utilizing such employment counseling and placement
21 services as are available through the department. This subsection does
22 not apply to individuals covered by (b)(ii) or (iii) of this
23 subsection.

24 (2) With respect to claims that have an effective date on or after
25 January 4, 2004:

26 (a) An individual shall be disqualified from benefits beginning
27 with the first day of the calendar week in which he or she has left
28 work voluntarily without good cause and thereafter for seven calendar
29 weeks and until he or she has obtained bona fide work in employment
30 covered by this title and earned wages in that employment equal to
31 seven times his or her weekly benefit amount.

32 The disqualification shall continue if the work obtained is a mere
33 sham to qualify for benefits and is not bona fide work. In determining
34 whether work is of a bona fide nature, the commissioner shall consider
35 factors including but not limited to the following:

- 36 (i) The duration of the work;
- 37 (ii) The extent of direction and control by the employer over the
38 work; and

1 (iii) The level of skill required for the work in light of the
2 individual's training and experience.

3 (b) An individual is not disqualified from benefits under (a) of
4 this subsection when:

5 (i) He or she has left work to accept a bona fide offer of bona
6 fide work as described in (a) of this subsection;

7 (ii) The separation was necessary because of the illness or
8 disability of the claimant or the death, illness, or disability of a
9 member of the claimant's immediate family if:

10 (A) The claimant pursued all reasonable alternatives to preserve
11 his or her employment status by requesting a leave of absence, by
12 having promptly notified the employer of the reason for the absence,
13 and by having promptly requested reemployment when again able to assume
14 employment. These alternatives need not be pursued, however, when they
15 would have been a futile act, including those instances when the
16 futility of the act was a result of a recognized labor/management
17 dispatch system; and

18 (B) The claimant terminated his or her employment status, and is
19 not entitled to be reinstated to the same position or a comparable or
20 similar position;

21 (iii) He or she: (A) Left work to relocate for the spouse's
22 employment that, due to a mandatory military transfer: (I) Is outside
23 the existing labor market area; and (II) is in Washington or another
24 state that, pursuant to statute, does not consider such an individual
25 to have left work voluntarily without good cause; and (B) remained
26 employed as long as was reasonable prior to the move;

27 (iv) The separation was necessary to protect the claimant or the
28 claimant's immediate family members from domestic violence, as defined
29 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

30 (v) The individual's usual compensation was reduced by twenty-five
31 percent or more;

32 (vi) The individual's usual hours were reduced by twenty-five
33 percent or more;

34 (vii) The individual's worksite changed, such change caused a
35 material increase in distance or difficulty of travel, and, after the
36 change, the commute was greater than is customary for workers in the
37 individual's job classification and labor market;

1 (viii) The individual's worksite safety deteriorated, the
2 individual reported such safety deterioration to the employer, and the
3 employer failed to correct the hazards within a reasonable period of
4 time;

5 (ix) The individual left work because of illegal activities in the
6 individual's worksite, the individual reported such activities to the
7 employer, and the employer failed to end such activities within a
8 reasonable period of time; or

9 (x) The individual's usual work was changed to work that violates
10 the individual's religious convictions or sincere moral beliefs.

11 NEW SECTION. **Sec. 2.** Section 1 of this act applies retroactively
12 to claims that have an effective date on or after January 4, 2004.

Passed by the House March 3, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 8, 2006.

Filed in Office of Secretary of State March 8, 2006.